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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,761	01/22/2004	Kaneyoshi Hayashi	HAYASHI, K ET AL. I	3115

7590 05/24/2005

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Roslyn, NY 11576-1696

EXAMINER

NICHOLSON, ERIC K

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 05/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/762,761

Applicant(s)

HAYASHI ET AL.

Examiner

Eric K Nicholson

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/10/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Claim Rejections – 35 USC § 112

Claims 1 and 4-9 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1 and claim 9 the flange is said to have an outer periphery and the connecting portions are said to project out from the outer periphery. As worded the scope of the claims can not be determined as it is unclear where the outer periphery of the flange stops and where the outer periphery of the connecting portion starts, from the drawings the flange appears to have an outer periphery which includes the connecting portion as part of its outer periphery.

Claim Rejections – 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art

are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 6,264,251 to Kunsman et al. in view of Japanese application publication 2000-130662. The split flange of Kunsman illustrates the present invention as shown figs. 8-23 including a split flange having a pair of arcuate flange members 50,52 of the same shape which form a flange shape having an outer periphery when assembled. Further, two connecting portions 30,32 are provided at two end portions of each of the flange members and the two connecting portions project outward from the outer periphery as shown in fig. 4. The connecting portions include a connection hole 54 and a projection 56 to connect the portions together. As shown in fig. 21 the outer thickness of the split flange is constant and includes a recess along its inner surface. However Kunsman only shows portions 60 extending radially out from the *circular periphery shape* of flange and not the hole portions 30 and 32 of the connecting portions. The Japanese patent discloses that it is known in the art to provide *a similar type* flange

with the configuration of the connecting portions (as shown in fig. 3) including the holes for connection members 20 and 35 extending radially out from the *periphery shape* of flange. It would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the shape of the connecting portions 30,32 of the flange of Kunsman to be shaped radially outside the circular shaped periphery of the flange such as taught and shown by the Japanese flange in fig. 3, in order to provide a readily identifiable areas to insert the connecting bolts for the flange members. Further, "There is no invention in merely changing the shape or form of an article without changing its function except in a design patent." Eskimo Pie Corp. v. Levous et al, 3 USPQ 23. Also, where a minor structural difference between the claimed device and that of reference is involved and it is not apparent that such difference should produce a substantial improvement, the burden is upon the applicant to show, by factual evidence, that he has obtained an unexpectedly good result. 81 USPQ 390; 624 OG5.

Conclusion

Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new grounds of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Nicholson whose telephone number is


(571)272-7086. The examiner can normally be reached on Tuesdays thru Fridays from 7:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola, can be reached on (571) 272-7087. The fax phone number for Technology Center 3600 is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center receptionist whose telephone number is (703) 308-1113.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

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5/4/05


Eric K. Nicholson
Primary Examiner
Technology Center 3600